

**IN THE U.S. DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

SUSAN THAYER,
Qui Tam Plaintiff/Relator

ON BEHALF OF HERSELF AND ON
BEHALF OF THE U.S. OF AMERICA,

Plaintiffs,

vs.

PLANNED PARENTHOOD OF THE
HEARTLAND, INC. (f/k/a PLANNED
PARENTHOOD OF GREATER IOWA,
INC.),

Defendant.

Case No. 4:11-cv-00129-JAJ-CFB

**DECLARATION OF ALAN S.
GILBERT IN SUPPORT OF MOTION
FOR REASONABLE ATTORNEY FEES**

Judge John A. Jarvey

I, Alan S. Gilbert, declare, pursuant to 28 U.S.C. §1746, that the following is true and correct:

1. I am an attorney at the law firm of Dentons US LLP and am one of the attorneys for the defendant, Planned Parenthood of the Heartland, Inc. (“PPH”).

2. I submit this declaration in support of PPH’s Motion for Reasonable Attorney Fees.

3. I have been practicing law for 45 years. I graduated from the University of Chicago Law School in 1975 and have practiced as a trial and appellate lawyer focusing on complex commercial litigation. In 2020, I retired from the partnership at Dentons US LLP (“Dentons”). However, I am still a licensed lawyer and am one of the attorneys of record for PPH in this matter. Attached hereto as Exhibit A is a true and correct copy of my profile published on the Dentons website.

4. I was first approached by PPH seeking legal counsel in this action on or about August 1, 2012. PPH was familiar with me and Dentons due to a prior engagement in which we successfully represented PPH's predecessor, Planned Parenthood of Greater Iowa ("PPGI"), in two companion cases, *Planned Parenthood v. Bettendorf IA City* (Case Nos. 3:96-cv-80184-CRW and 3:97-cv-80056-CRW (S.D. Iowa)). In those cases, PPGI enjoined the city of Bettendorf from using zoning rules to prevent PPGI from opening a clinic.

5. In addition to our prior successful representation of PPGI, our firm was particularly qualified to represent PPH in this matter because we have a history of successfully litigating high-stakes matters for Planned Parenthood and its affiliates. For example, in the 1980s, we represented Planned Parenthood Association/Chicago Area ("PPCA") in a civil rights suit against the Chicago Transit Authority (*see, Planned Parenthood Association/Chicago Area v. Chicago Transit Authority*, 592 F. Supp. 544 (N. D. Ill 1984), *aff'd*, 767 F.2d 1225 (7th Cir. 1985)). More recently, we represented PPCA in a negligence action by a former patient, *Doe v. Planned Parenthood*, 956 N.E.2d 564 (IL 2011), and its successor, Planned Parenthood of Illinois ("PPI") in a defamation action, *Scheidler v. Trombley*, No. 07L513 (Cir. Ct. Kane Cty., IL). We have also litigated other cases involving reproductive rights issues, including, e.g., *Ragsdale v. Turnock*, 841, F.2d 1358 (7th Cir. 1988).

6. Also, I have worked closely with PPI in various capacities since about 1982. From 1985 to 2019, I served on the board of directors of PPI and its predecessor PPCA as a director, board chair, and *ex officio* member, and from the early 1990s to 2019, I served as its counsel.

7. PPH was looking for the resources, scale and bench of a national firm like Dentons to defend Thayer's claims, because an adverse result would be crippling to PPH, and

effectively destroy PPH's ability to provide essential medical services to its patients. An adverse result would be particularly devastating to the low income and at-risk patients who seek PPH's services. Dentons was (and is) well suited to represent PPH. In addition to Dentons' particular knowledge about reproductive rights issues and Planned Parenthood operations, Dentons has a deep bench of experts specializing in complex commercial litigation, financial disputes, fraud, government contracts, the False Claims Act, white-collar defense, internal investigations, employment law, health care law, government regulatory compliance, and insurance law.

8. As a retired partner in Dentons' litigation and dispute resolution practice group, I personally have extensive experience in litigating and leading teams in complex commercial litigation and financial disputes, including FCA cases. I have been recognized by Illinois Super Lawyer for Business Litigation for the years 2014 through 2019.

9. Some of my relevant experience, which includes False Claims Act litigation (*e.g.*, *United States ex rel. Hayes v. Allstate Ins. Co.*, 853 F.3d 80 (2d Cir. 2017)), is listed in my profile, attached as Exhibit A.

10. Throughout my 45 year career, I have represented clients in Iowa at my Chicago-area hourly rates.

I, Alan S. Gilbert, declare under penalty of perjury that the foregoing is true and correct to the best of knowledge.

Executed on: June 19, 2020

SIGNATURE:

A handwritten signature in black ink, appearing to read "Alan S. Gilbert", written over a horizontal line.

Exhibit A

Alan S. Gilbert

Retired Partner



Retired Partner

Chicago

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alan.gilbert@dentons.com

Overview

Alan Gilbert is a trial and appellate lawyer with extensive experience before state and federal courts, arbitration tribunals and administrative agencies throughout the United States. He concentrates on complex commercial cases, with a particular emphasis on financial disputes, class actions and multijurisdictional proceedings for financial services and insurance companies.

Experience

Current and recent representations

- Complete defense victory through federal court jury trial and appeal in a case brought by an investment company seeking hundreds of millions of dollars from a large annuity issuer for stopping lucrative market timing trading in annuity contracts.
- Obtained dismissal with prejudice, and affirmance on appeal, of a more than \$100 million class action in Wisconsin federal court challenging a company's elimination of retiree health benefit subsidies under the Employee Retirement Income Security Act (ERISA) and state law.
- Led team of US and Canadian lawyers defending railroad's officers, directors and others in various US and Canadian trial and bankruptcy court actions arising out of a train derailment that destroyed the center of the town of Lac Mégantic, Québec, and killed 47 people.
- Led a team of Dentons and other outside lawyers for Citigroup that prosecuted foreclosure and receiver actions in six states arising out of a US\$165 million portfolio of distressed hotel loans. Successfully defended multiple attempts to obtain injunctions against foreclosure, and defeated three different lender liability suits arising out of the loans.
- Obtained dismissal through summary judgment, and affirmance on appeal, of a more than \$1 billion national class action in Illinois federal court against a life insurance company alleging overcharging for the cost of insurance under universal life insurance policies.
- Defending a national ERISA class action in Kentucky federal court against Hanover Insurance Group and its

cash balance pension plan, which seeks millions of dollars in additional lump sum payments for plan participants.

- Successfully defending various property and casualty insurers, including Metropolitan Property and Casualty Insurance Company, facing class actions in various state and federal jurisdictions.
- Complete victory, including payment of attorneys' fees, for an insurance company in a dispute with a reinsurer over coverage of various longtail commercial claims.
- Defending GlaxoSmithKline in wrongful death products liability actions.
- Defending health care provider in federal False Claims Act case challenging Medicaid reimbursement practices.
- Defending defamation action arising from statements made during efforts to get governmental approvals for the opening of a health care center.
- Defending an investment fund in a breach of fiduciary duty action.

Alan's broad experience also includes:

- Bringing and defending fraud and recovery actions against lawyers, accountants and others
- Litigation in bankruptcy courts
- Securities, shareholder and partnership disputes
- Litigating complex privilege and work product issues
- Constitutional litigation

Recognition

Honors and Awards

- Illinois *Super Lawyer*, Business Litigation, 2014 - 2019
- *BTI* Client Service All-Star, 2014

Insights

- Co-author, "Life Insurance and Annuities Class Actions" chapter in *A Practitioner's Guide to Class Actions* (2d Ed.), ABA Publishing, 2017
- "Litigation in Connection with Removing a General Partner: Be Prepared," *Journal of Tax Credits*, November 2011

Activities and Affiliations

Presentations

- "Corporate Litigation Problems That Keep General Counsel Awake at Night and How to Solve Them," ABA Business Law Section, 2012
- "Managing Litigation in this Economy: Doing More with Less," Argyle Chief Legal Officer Leadership Forum, 2012

- "Recent Developments in Finance: Ongoing Financial Crisis Litigation," Association of Corporate Counsel, Chicago Chapter, 2011

Memberships

- Legal counsel, Planned Parenthood of Illinois

Areas of focus

Practices

- Alternative Dispute Resolution (ADR)
- Appellate Advocacy
- Class Action Defense
- Commercial Litigation
- ERISA Litigation
- Financial Services Litigation
- Litigation and Dispute Resolution
- Pensions and Benefits Disputes
- Real Estate Litigation and Dispute Resolution
- Securities and Shareholder Litigation

Industry sectors

- Financial Products Litigation
- Insurance Litigation and Arbitration
- Sales Practices Litigation

Education

- University of Chicago, 1975, JD, Order of the Coif
- Princeton University, 1971, AB

Admissions and qualifications

- Illinois
- US Court of Appeals for the Eighth Circuit
- US Court of Appeals for the Fifth Circuit
- US Court of Appeals for the First Circuit
- US Court of Appeals for the Fourth Circuit
- US Court of Appeals for the Second Circuit

- US Court of Appeals for the Seventh Circuit
- US Court of Appeals for the Sixth Circuit
- US District Court for the Eastern District of Wisconsin
- US District Court for the Northern District of Illinois
- US District Court for the Northern District of Illinois, Trial Bar
- US District Court for the Northern District of Texas
- US Supreme Court